

Default - closed case 412-45
Ruling is Final
INTERNAL REVENUE SERVICE

DISTRICT DIRECTOR

DEPARTMENT OF THE TREASURY
2 Cupania Circle
Monterey Park, CA 91755-7406

Date: DEC 13 1994

Case Number:
[REDACTED]

Taxpayer Identifying Number:
[REDACTED]

Contact Person:
[REDACTED]

Contact Telephone Number:
[REDACTED]

[REDACTED]

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in § 501(c)(3) of the Internal Revenue Code (hereinafter "the Code").

FACTS

The information submitted discloses that you were incorporated under the corporation laws of the State of [REDACTED] on [REDACTED]. Your articles of incorporation state that you were organized "to provide financial assistance to graduating high school seniors, in need, whose parents either cannot or will not assist them financially, in acquiring a higher education."

On your Form 1023 regarding your activities and operational information, you state "The primary objective of the foundation is to offer financial assistance, in the form of academic scholarships, to graduating high school seniors who for whatever reason, come from families that cannot afford to send their children on to any form of secondary education, such as either colleges or even technical schools, because of financial reasons, usually just plain low economic income."

You use the following activity codes to identify your activities:

- [REDACTED]
- Supplying money, goods or services to the poor,
 - Services for the aged, and
 - Aids to the handicapped.

Sources of financial support shown on your Form 1023 state "At the present time this organization does not have any procedure for the generation of income other than the following:...

- (a) Direct donations from the general public at large,
- (b) Larger sums from various fund raising activities,
- (c) A possible 'thrift store' type operation,
- (d) Donations of property (both personal and real) which can be turned into cash, and
- (e) Various others as may be recommended and implemented by the organization."

858 0099

Code	Initiator EP/EO:TB:REV: _ _	Reviewer EP/EO:TB:REV	Reviewer EP/EO:TB	Reviewer EP/EO	Reviewer DD	Reviewer EP/EO:TB:REV _ _
Surname	[REDACTED]	[REDACTED]	[REDACTED]			
Date	DEC 12 1994	12-12-94	DEC 12 1994			

Form 1537 Correspondence Approval and Clearance

Department of the Treasury/Internal Revenue Service

Information submitted indicates that you are currently not engaged in any activity aside from organizational activities. Also, you will not start any of your activities until your tax exemption has been granted.

ISSUE

Does the organization qualify for exemption under the Code § 501(a) as an organization described in the Code § 501(c)(3)?

LAW

Code § 501(c)(3) provides exemption to organizations organized and operated exclusively for charitable, educational, or other exempt purposes.

Income Tax Regulations (hereinafter "Reg.") § 1.501(c)(3)-1(a) provides that in order to be exempt as an organization described in the Code § 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Revenue Procedure 90-27, § 5.01 states "A ruling or determination letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Any oral representation of additional facts or modification of facts as represented or alleged in the application for a ruling or determination letter must be reduced to writing over the signature of an authorized individual."

Revenue Procedure 90-27, § 5.02 states "Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded."

ANALYSIS AND CONCLUSION

You failed to fully describe to the satisfaction of the Internal Revenue Service, that the activities in which you expect to engage will

be in furtherance of your purposes. Accordingly, you do not meet the operational test as required by Reg. § 1.501(c)(3)-1(c).

Donations to your organization are not deductible by donors under the Code § 170.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement, Form 6018, Consent to Proposed Adverse Action. Please note that the instructions for signing are on the reverse side of the form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange for a hearing. The hearing may be held at the office of Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination.

Code § 7428(b)(2) provides, in part, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

You are required to file Federal income tax returns, Form 1120, U.S. Corporate Income Tax Return, annually with your respective Service Center.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,



District Director

Enclosures:
Publication 892
Form 6018

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number	Date of Latest Determination Letter
Employer Identification Number	Date of Proposed Adverse Action Letter DEC 13 1994
Name and Address of Organization	

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date